

**MCV2004-04690**

FILED  
IN CLERKS OFFICE

2005 JAN -6 P 1:40

U.S. DISTRICT COURT  
DISTRICT OF MASS.

**STEPHEN D CAIAZZO**

**V.**

**MEDALLION INSURANCE AGENCIES, INC**

**\*\*\*\*REMOVED TO US DISTRICT COURT\*\*\*\***




**Commonwealth of Massachusetts  
SUPERIOR COURT DEPARTMENT  
THE TRIAL COURT  
CAMBRIDGE**

MICV2004-04690

I, Karen O'Connor, Deputy Assistant Clerk of the Superior Court, within and for said County of Middlesex, do certify that the annexed papers are true copies made by photographic process of pleadings entered in the Superior Court on the 24<sup>th</sup> of Nov., in the year of our Lord, Two Thousand Four

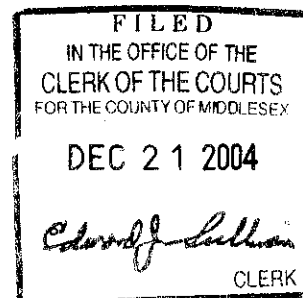


In testimony whereof, I hereunto set my hand and affix the seal of said Superior Court, at Cambridge, in said County, this 21<sup>ST</sup> of Dec., in the year of our Lord, Two Thousand Four

  
\_\_\_\_\_  
Deputy Assistant Clerk

3

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS



\* \* \* \* \*  
STEPHEN D. CAIAZZO,  
Plaintiff,  
  
v.  
  
THE MEDALLION INSURANCE  
AGENCIES, INC.,  
Defendant.  
  
\* \* \* \* \*

CIVIL ACTION NO. 04-4690

NOTICE OF FILING OF NOTICE OF REMOVAL

To: Clerk's Office, Civil  
Middlesex Superior Court  
40 Thorndike Street  
E. Cambridge, MA 02141

Dean Carnahan  
LAW OFFICES OF DEAN CARNAHAN  
126 Broadway  
Arlington, MA 02474

Please take notice that on December 14, 2004, The Medallion Insurance Agencies, Inc., the defendant in the above-entitled action, filed a notice of removal, copies of which are attached, of this action to the United States District Court for the District of Massachusetts.

You are also advised that the defendant, upon filing this notice of removal in the office of the Clerk of the United States District Court for the District of Massachusetts, also filed copies of the notice with the Clerk of the Superior Court

Department of Middlesex County, to effect removal pursuant to 28  
U.S.C. §1446(e).

The Defendant,  
By its attorney,



William D. Chapman, BBO #551261  
MELICK, PORTER & SHEA, LLP  
28 State Street  
Boston, MA 02109-1775  
(617) 523-6200

CERTIFICATE OF SERVICE

I, William D. Chapman, hereby certify that on this day, I  
forwarded notice of the foregoing document(s) by mailing a copy  
thereof, postage prepaid to the following:

Dean Carnahan  
LAW OFFICES OF DEAN CARNAHAN  
126 Broadway  
Arlington, MA 02474

Clerk's Office, Civil  
Middlesex Superior Court  
40 Thorndike Street  
East Cambridge, MA 02141



William D. Chapman

Date: 12-14-04

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS

FILED  
IN CLERK'S OFFICE  
2004 DEC 15 P 12:15

\* \* \* \* \*  
STEPHEN D. CAIAZZO,  
Plaintiff,

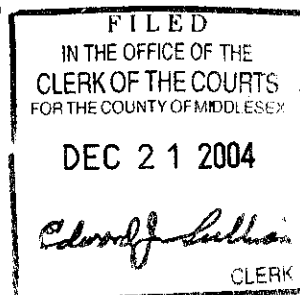
v.

THE MEDALLION INSURANCE  
AGENCIES, INC.,  
Defendant.

CIVIL ACTION NO

U.S. DISTRICT COURT  
DISTRICT OF MASS.

04 12627 RCL



NOTICE OF REMOVAL OF THE DEFENDANT,  
THE MEDALLION INSURANCE AGENCIES, INC.

The Medallion Insurance Agencies, Inc. hereby notices the removal of the above-entitled action from the Superior Court Department of the Trial Court of the Commonwealth of Massachusetts for Middlesex County, to this Court. The grounds for this Notice are as follows.

- (1) Petitioner is the defendant in the above-entitled action.
- (2) On November 24, 2004, the above-entitled action was commenced against the defendant in the Superior Court Department of the Trial Court of the Commonwealth of Massachusetts for Middlesex County, and is now pending therein.
- (3) On or about December 1, 2004, defendant, The Medallion Insurance Agencies, Inc., received service of the Summons and Complaint in the above-entitled

action, a copy of which is attached hereto and marked Exhibit "A".

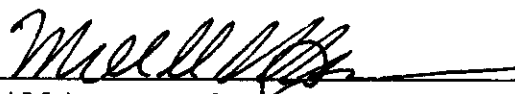
- (4) No further proceedings have been had herein in the Superior Court for Middlesex County.
- (5) The plaintiff alleges that he is a resident of Cape Coral, Florida.
- (7) Defendant, The Medallion Insurance Agencies, Inc., is a Massachusetts corporation with a principal place of business at 110 Florence Street, Malden, Middlesex County, Massachusetts 02148.
- (8) In the plaintiff's complaint, the plaintiff alleges that the defendant failed to report three different insurance claims to the appropriate insurers, causing uninsured loss (\$35,000 liability claim in 2002, loss of \$234,000 in disability payments in 2001, and \$25,100 in property losses at unidentified time).
- (9) The amount in controversy in the above-entitled action exclusive of interest and costs, but inclusive of the statutory claim for attorneys' fees and multiple damages exceeds Seventy-Five Thousand Dollars (\$75,000.00).
- (10) This Court has original jurisdiction of this action based on diversity of citizenship of the parties, 28 U.S.C. 1332, and the action may be removed to this Court pursuant to 28 U.S.C. 1441(a) and (b).
- (11) This petition is filed with this Court pursuant to 28 U.S.C. § 1446, within 30 days after receipt by petitioner of the summons and complaint in the above-entitled action.

WHEREFORE, petitioner, The Medallion Insurance Agencies, Inc., prays that the above-entitled action be removed from the Superior Court Department of the Trial Court of the Commonwealth of Massachusetts for Middlesex County, to this Court.

Signed under the penalties of perjury this 14<sup>th</sup> day of December, 2004.

The Medallion Insurance  
Agencies, Inc. Inc.,


By its attorney,

  
\_\_\_\_\_  
William D. Chapman  
BBO #551261  
MELICK, PORTER & SHEA, LLP  
28 State Street  
Boston, MA 02109-1775  
(617) 523-6200

CERTIFICATE OF SERVICE

I, William D. Chapman, hereby certify that on this day, I forwarded notice of the foregoing document(s) by mailing a copy thereof, postage prepaid to the following:

Dean Carnahan  
LAW OFFICES OF DEAN CARNAHAN  
126 Broadway  
Arlington, MA 02474

  
\_\_\_\_\_  
William D. Chapman

Date: 12-14-04

Thursday 02 of Dec 2004, Faxination  
 DEC- 1-04 WED 5:11 PM MEDALLION INS.

->617 523 8130  
 FAX NO. 617 324-7189

Page 3 of 6  
 P. 2

TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED:  
 TORT — MOTOR VEHICLE TORT — CONTRACT  
 EQUITABLE RELIEF — OTHER

## COMMONWEALTH OF MASSACHUSETTS

SUPERIOR COURT  
 DEPARTMENT  
 OF THE  
 TRIAL COURT  
 CIVIL ACTION  
 No. 04-4690

MIDDLESEX, ss  
 [seal]

Stephen D. Caiazzo, Plaintiff(s)

The Medallion Insurance  
 Agencies, Inc., Defendant(s)

## SUMMONS

To the above-named Defendant:

You are hereby summoned and required to serve upon Dean Carnahan, Esq., Law Officer  
 of Dean Carnahan, plaintiff's attorney, whose address is 126 Broadway,  
 Arlington, MA 02477, an answer to the complaint which is herewith  
 served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you  
 fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also  
 required to file your answer to the complaint in the office of the Clerk of this court at East Cambridge,  
 either before service upon plaintiff's attorney or within a  
 reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may  
 have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's  
 claim or you will thereafter be barred from making such claim in any other action.

Witness, Suzanne V. DelVecchio, Esquire, at Cambridge  
 the 24th day of November

A TRUE COPY ATTEST 2004

*[Signature]*  
 DEPUTY SHERIFF  
 Middlesex County

12/1/04  
 DATE OF SERVICE

*[Signature]*  
 Clerk

## NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all such defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.



Thursday 02 of Dec 2004, Faxination  
DEC- 1-04 WED 5:11 PM MEDALLION.INS. \_

->617 523 8130  
FAX NO. 617 324+7189

Page 4 of 6  
P. 3

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL NO.

STEPHEN D. CAIAZZO,  
Plaintiff

COMPLAINT

v.

THE MEDALLION INSURANCE  
AGENCIES, INC.,  
Defendant

1. The plaintiff, Stephen D. Caiazzo ("Caiazzo"), is a resident of Cape Coral, Florida.
2. The defendant, The Medallion Insurance Agencies, Inc. ("Medallion"), is a Massachusetts corporation, with offices in Malden, Middlesex County, Massachusetts.
3. At all times relevant hereto, Medallion was an insurance agent for Caiazzo for liability, property, workers compensation, disability, broad form peril and other insurance policies with various insurance companies that provided insurance coverage to Caiazzo.
4. At all times relevant hereto, Medallion had a duty to Caiazzo to forward all claims or losses of Caiazzo to the appropriate insurance company.

COUNT I - LIABILITY CLAIM

5. Caiazzo incorporates herein by reference the allegations set forth in Paragraphs 1-4 of this Complaint as if set out in full herein.
6. A personal injury claim was asserted against Caiazzo which was pending in Court in 2002.
7. Caiazzo notified Medallion of the claim, but Medallion negligently failed to report the claim to the appropriate insurance company.
8. As a result thereof, Caiazzo was required to pay \$35,000.00 to the injured party.

COUNT II - DISABILITY POLICY

9. Caiazzo incorporates herein by reference the allegations set forth in Paragraphs 1-4 of this Complaint as if set out in full herein.

Thursday 02 of Dec 2004, Faxination

->617 523 8130

Page 5 of 6

DEC- 1-04 WED 5:12 PM MEDALLION. INS. \_

FAX NO. 617 324+7189

P. 4

10. Caiazzo was injured and became disabled in 2001 and notified Medallion of his injury and of his claim for payment under his disability insurance policy.

11. Medallion negligently failed to report the claim to the applicable insurance company causing Caiazzo to lose the disability insurance payments.

12. As a result thereof, on information and belief, Caiazzo lost about \$234,000.00 in disability insurance payments.

COUNT III - PROPERTY INSURANCE

13. Caiazzo incorporates herein by reference the allegations set forth in Paragraphs 1-4 of this Complaint as if set out in full herein.

14. Caiazzo kept personal property, acquired during his years in business, in his office and at other places inside and outside of premises known as Scuttlebutts in Salem, Massachusetts.

15. Some of Caiazzo's personal property was removed from the premises by others, who sold, transferred, kept or destroyed this personal property.

16. Caiazzo reported this loss to Medallion, but Medallion negligently failed to report the loss to the applicable insurance company.

17. As a result thereof, Caiazzo suffered losses in the amount of \$25,100.00.

WHEREFORE, the plaintiff, Stephen D. Caiazzo, requests this Court to enter judgment in his favor against the defendant, the Medallion Insurance Agencies, Inc., for monetary damages, interest, costs and such additional relief as the Court deems just and reasonable under Count I, Count II and Count III of this Complaint.

By Plaintiff's Attorney,



DEAN CARNAHAN  
BBO #074580  
LAW OFFICES OF DEAN CARNAHAN  
126 Broadway  
Arlington, MA 02474  
(781) 641-2825

Dated: November 23, 2004

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL NO.

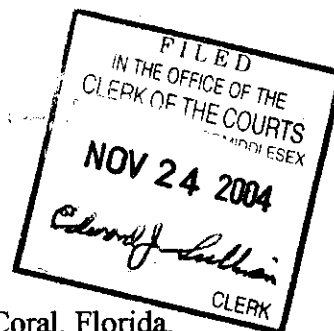
04-4690

STEPHEN D. CAIAZZO,  
Plaintiff

v.

COMPLAINT

THE MEDALLION INSURANCE  
AGENCIES, INC.,  
Defendant



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3. At all times relevant hereto, Medallion was an insurance agent for Caiazzo for liability, property, workers compensation, disability, broad form peril and other insurance policies with various insurance companies that provided insurance coverage to Caiazzo.

4. At all times relevant hereto, Medallion had a duty to Caiazzo to forward all claims or losses of Caiazzo to the appropriate insurance company.
- |                             |        |
|-----------------------------|--------|
| 2401E000011/24/04CIVIL      | 240.00 |
| 2401E000011/24/04SUR CHARGE | 15.00  |
| 2401E000011/24/04SUMMONS    | 5.00   |
| 2401E000011/24/04SECC       | 20.00  |
- COUNT I - LIABILITY CLAIM

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WHEREFORE, the plaintiff, Stephen D. Caiazzo, requests this Court to enter judgment in his favor against the defendant, the Medallion Insurance Agencies, Inc., for monetary damages, interest, costs and such additional relief as the Court deems just and reasonable under Count I, Count II and Count III of this Complaint.

By Plaintiff's Attorney,



DEAN CARNAHAN  
BBO #074580  
LAW OFFICES OF DEAN CARNAHAN  
126 Broadway  
Arlington, MA 02474  
(781) 641-2825

Dated: November 23, 2004



<b>CIVIL ACTION COVER SHEET</b>	DOCKET NO.(S)  <b>04-1690</b>	<b>Trial Court of Massachusetts Superior Court Department</b> County: <u>Middlesex</u>
PLAINTIFF(S) <u>Stephen D. Caiazzo</u>		DEFENDANT(S) <u>The Medallion Insurance Agencies, Inc.</u>
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE <u>Dean Carnahan,</u> <u>Law Offices of Dean Carnahan, 126 Broadway,</u> <u>Arlington, MA 02474 (781) 641-2825</u> Board of Bar Overseers number: <u>074580</u>		ATTORNEY (if known)
<b>Origin code and track designation</b>		
Place an x in one box only:		
<input checked="" type="checkbox"/> 1. F01 Original Complaint	<input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X)	
<input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F)	<input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)	
<input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)	<input type="checkbox"/> 6. E10 Summary Process Appeal (X)	
<b>TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)</b>		
CODE NO.	TYPE OF ACTION (specify)	TRACK
<u>A99</u>	<u>Insurance Policies</u>	(F)
		( ) Yes (X) No
The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.		
<b>TORT CLAIMS</b> (Attach additional sheets as necessary)		
A. Documented medical expenses to date:		
1. Total hospital expenses		\$
2. Total Doctor expenses		\$
3. Total chiropractic expenses		\$
4. Total physical therapy expenses		\$
5. Total other expenses (describe)		\$
	<b>Subtotal</b>	\$
B. Documented lost wages and compensation to date		
C. Documented property damages to date		
D. Reasonably anticipated future medical and hospital expenses		
E. Reasonably anticipated lost wages		
F. Other documented items of damages (describe)		
G. Brief description of plaintiff's injury, including nature and extent of injury (describe)		
		\$
		<b>TOTAL \$</b>
<b>CONTRACT CLAIMS</b> (Attach additional sheets as necessary)		
Provide a detailed description of claim(s): <u>Defendant was Plaintiff's insurance agent.</u> <u>Plaintiff notified Defendant of various claims and Defendant failed to</u> <u>report or forward the claims to the appropriate insurance companies,</u> <u>causing damages to the Plaintiff</u>		
		<b>TOTAL \$ 160,100.00</b>
PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT		
"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."		
Signature of Attorney of Record <u>Dr. Caiazzo, Esq.</u>		DATE: <u>11/23/04</u>

MAS-20031124

gilmanr

## Commonwealth of Massachusetts

## MIDDLESEX SUPERIOR COURT

## Case Summary

## Civil Docket

MICV2004-04690

## Caiazzo v Medallion Insurance Agencies, Inc.

<b>File Date</b>	11/24/2004	<b>Status</b>	Disposed: transfered to other court (dtrans)	
<b>Status Date</b>	12/21/2004	<b>Session</b>	J - Cv J (9B Cambridge)	
<b>Origin</b>	1	<b>Case Type</b>	A02 - Goods sold/delivered under contract	
<b>Lead Case</b>		<b>Track</b>	F	

<b>Service</b>	02/22/2005	<b>Answer</b>	04/23/2005	<b>Rule 12/19/20</b>	04/23/2005
<b>Rule 15</b>	04/23/2005	<b>Discovery</b>	09/20/2005	<b>Rule 56</b>	10/20/2005
<b>Final PTC</b>	11/19/2005	<b>Disposition</b>	01/18/2006	<b>Jury Trial</b>	No

## PARTIES

**Plaintiff**  
Stephen D. Caiazzo  
Active 11/24/2004

**Private Counsel 074580**  
Dean Carnahan  
LAW OFFICES OF DEAN CARNAHAN  
126 Broadway  
Arlington, MA 02474  
Phone: 781-641-2825  
Fax:  
Active 11/24/2004 Notify

**Defendant**  
Medallion Insurance Agencies, Inc.  
Served: 12/01/2004  
Served (answr pending) 12/01/2004

**Private Counsel 551261**  
William D Chapman  
Melick Porter & Shea LLP  
28 State Street  
22nd Floor  
Boston, MA 02109-1775  
Phone: 617-523-6200  
Fax: 617-523-8130  
Active 12/21/2004 Notify

Date	Paper	Text
11/24/2004	1.0	Complaint & civil action cover sheet filed
11/24/2004		Origin 1, Type A02, Track F.
12/09/2004	2.0	SERVICE RETURNED: Medallion Insurance Agencies, Inc.(Defendant) 12/1/04 in hd, 110 Florence St., Malden, MA
12/21/2004	3.0	Case REMOVED this date to US District Court of Massachusetts by defendant Medallion Insurance Agencies, Inc
12/21/2004		ABOVE ACTION THIS DAY REMOVED TO US DISTRICT COURT

TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED: —  
TORT — MOTOR VEHICLE TORT — CONTRACT —  
EQUITABLE RELIEF — OTHER

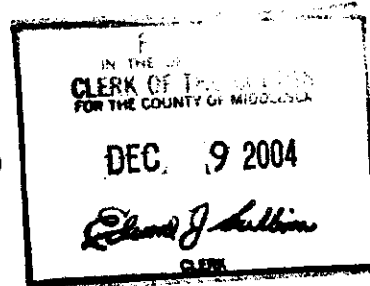
COMMONWEALTH OF MASSACHUSETTS

SUPERIOR COURT  
DEPARTMENT  
OF THE  
TRIAL COURT  
CIVIL ACTION  
No. 04-4690 J

..... MIDDLESEX ..... , ss  
[seal]

2  
Stephen D. Caiazzo Plaintiff(s)

The Medallion Insurance  
Agencies, Inc. Defendant(s)



SUMMONS

To the above-named Defendant:

You are hereby summoned and required to serve upon Dean Cornahan, Esq., Law Offices  
d. Dean Cornahan plaintiff's attorney, whose address is 126 Broadway,  
Arlington, MA 02474, an answer to the complaint which is herewith  
served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you  
fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also  
required to file your answer to the complaint in the office of the Clerk of this court at East Cambridge  
..... either before service upon plaintiff's attorney or within a  
reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may  
have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's  
claim or you will thereafter be barred from making such claim in any other action.

Witness, Suzanne V. DelVecchio, Esquire, at Cambridge  
the 24th day of November  
....., in the year of our Lord 2004.

Edward J. Sullivan  
Clerk

NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all such defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.



Middlesex Sheriff's Office • Civil Process Division, P.O. Box 410180, Cambridge, MA 02141-1819 • (617) 547-1171

Middlesex, ss.

December 3, 2004

I hereby certify and return that on 12/1/2004 at 1:50PM I served a true and attested copy of the SUMMONS, COMPLAINT, CIVIL ACTION COVER SHEET in this action in the following manner: To wit, by delivering in hand to JULIE WILLARD, agent, person in charge at the time of service for THE MEDALLION INSURANCE AGENCIES, INC., at , 110 FLORENCE Street, MALDEN, MA 02148. Attest (\$5.00), Basic Service Fee (\$30.00), Conveyance (\$1.50), Postage and Handling (\$1.00), Travel (\$3.20) Total Charges \$40.70

*James V. McMahon*

Deputy Sheriff

Dated: .....

**N.B. TO PROCESS SERVER:**

PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN THIS BOX ON THE ORIGINAL AND ON COPY SERVED ON DEFENDANT.

( ..... )  
( ..... )  
( ..... )

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT  
DEPARTMENT  
OF THE  
TRIAL COURT  
CIVIL ACTION  
No. 04-4690

*Stephen D. Caiazzo*, Plff.

v. *The Medallion Ins. Agencies, Inc.*, Deflt.

SUMMONS  
(Mass. R. Civ. P. 4)

04039987